

Contract Change Agreement #2

This Change Agreement is executed as of 6/26/06, by and between ERG Transit Systems (USA) Inc, a California corporation and wholly owned subsidiary of ERG Limited, an Australian corporation, (hereinafter referred to as the "Contractor") and each of the following seven public transportation agencies (hereinafter referred to individually as an "Agency" or collectively as the "Agencies"):

1. Central Puget Sound Regional Transit Authority ("Sound Transit")
2. King County ("King County")
3. Kitsap County Public Transportation Benefit Area ("Kitsap Transit")
4. Pierce County Public Transportation Benefit Area ("Pierce Transit")
5. Snohomish County Public Transportation Benefit Area ("Community Transit")
6. City of Everett ("Everett")
7. State of Washington, acting through the Washington State Department of Transportation, Washington State Ferries Division ("WSF")

Background

A. Effective April 29, 2003, each of the Agencies and the Contractor entered into Contract #229944 ("Contract") to implement a Regional Fare Coordination System ("RFC System") to establish a common fare system utilizing smart card technology. The Contractor is responsible for the development, implementation, operation and maintenance of the RFC System as specified in the Contract.

B. The Contractor has not completed various activities and milestones by their due dates in the Project Schedule approved by Amendment Twelve.

C. Subject to the terms of this Change Agreement, the parties have agreed to: (a) make certain changes in the Factory Acceptance Test (FAT), System Integration Test (SIT), Beta Test, and the training, reporting and other activities related to said tests, in an effort to minimize further extension of the time for RFCS implementation; and (b) establish a new Project Schedule that allows all Parties to effectively plan for future RFCS implementation tasks.

The Agencies and the Contractor hereby agree as follows:

1.0 CHANGES TO SYSTEM INTEGRATION AND BETA TESTING

Notwithstanding any provision to the contrary in the Contract, the Factory Acceptance Test Plan (CDRL 14), the System Integration Test Plan (CDRL 16) and the Beta Test Plan (CDRL 18), the parties agree that the provisions of the Modified Testing Plan, a copy of which is attached hereto as Attachment A, shall govern. All testing processes, procedures, criteria, reports and other requirements of the Contract shall remain in effect unless expressly modified by the attached Plan.

2.0 CHANGES TO CST TRAINING ACTIVITIES FOR BETA TEST

The Contractor has not yet developed the training mode functionality that is required for the Customer Service Terminal under Sec. 6.III-11.2.8. In lieu of further delaying the completion of FAT, SIT and Beta while such functionality is developed, the parties have agreed to the following provisions:

- a. The Contractor shall develop, test and install the required CST training mode functionality as part of the Phase 2 design, development, FAT, SIT and other implementation activities. Implementation of said functionality shall be satisfactorily completed prior to the earliest date when an Agency is scheduled to commence Phase 2 "train-the-trainer" activities and the Agency employee training activities. Said CST training mode shall comply with the Contract requirements, including but not limited to the following:

Sec. 6.III-11.2.8

CDRL 28, Training Program Plan, Sec. 3.7

DR 108, Customer Service Terminal, Sec. 4.6.2.2

SEA-00105, System Architecture, Sec. 2.2.2.7.1

- b. The Agencies will send employees needing CST training for the Beta Test (both "train-the-trainer" sessions and employee training sessions) to the Contractor's Seattle office rather than conduct the training sessions at each Agency's site. The Contractor shall provide, at no additional charge to the Agencies, sufficient accommodations and equipment at its Seattle office for the conducting of train-the-trainer sessions and Agency employee training sessions in accordance with Section 3.7.1 of the Training Program Plan (CDRL 28) and at the times designated in the approved Schedule for Beta Test training.

3.0 AMENDMENTS TO DIVISION I

3.1 The Agencies and the Contractor hereby agree, without further execution, to amend the Contract as provided in Amendment 18, a copy of which is attached hereto as Attachment B. Said Amendment 18 modifies the following:

- a. Section 3.I-11, "Security of RFC System";
- b. Attachment H, "Key Completion Date Summary"; and
- c. Exhibit 8, Project Schedule.

3.2 The Agencies have agreed to review iterations of the training-related deliverables (per CDRL 29) as provided in the attached Schedule rather than as provided under the Contract. This is solely for the purpose of allowing the Contractor to commence the Beta Test sooner than it otherwise would. This Agreement shall not be construed as altering the time periods for Agency review of other deliverables which shall remain as provided in the Contract unless otherwise modified in writing.

4.0 OTHER TERMS AND CONDITIONS

4.1 The following definitions shall apply to this Change Agreement.

- a. "Claims" means any claims, demands, suits, actions, Damages, expenses (including attorneys' fees and related costs whether or not litigation is commenced) and liabilities of any kind ("Claims"),
- b. "Damages" means any direct and indirect damages, including but not limited to increased direct and indirect costs, overhead, losses, delayed revenue receipts, loss of use, loss of time, loss of goodwill, inconvenience, commercial loss, lost profits or anticipated business savings, wasted management time or other indirect, incidental or consequential damages.
- c. "Future Delay(s)" means failure to timely complete a task with a "Finish" date after June 7, 2006, as specified in the New Project Schedule attached to this Agreement, except for delay in the delivery of King County Phase 2 equipment quantities to October 16, 2006, as provided in Subsection d below.
- d. "Past Delay(s)" means delay experienced prior to and through June 7, 2006; and delay in the delivery of King County Phase 2 equipment quantities to October 16, 2006, to the extent said equipment delivery is found to be a contractual delay.

e. "Schedule Change" means the changes to the Project Schedule that are encompassed in the New Project Schedule attached to this Change Agreement, including (a) any Past Delays; (b) any changes in the time for the total Project Schedule, each Project and Payment Milestone and/or each listed task or activity; and (c) the past, present and future effects of Past Delays and said changes in the Project Schedule, including but not limited to any impacts, cumulative impacts, ripple effects, use of different means or methods, increased levels of effort, added resources, changed sequences, compressions, accelerations, demobilizations, inefficiencies, disruptions and other effects on the Contractor of same. The term "Schedule Change" does not include Future Delays and the impacts of Future Delays.

4.2 The Contractor, for and on behalf of itself, its parent corporation and their subcontractors, suppliers and any other person or entity supplying work or materials to the RFCS Project through them, forever and unconditionally releases and forever discharges the Agencies, each of them and their respective officials, employees, contractors and agents, from any and all Claims, known or unknown, arising out of, or related to, this Change Agreement, its Attachments, the Schedule Change included therein, and any actual or constructive changes that occurred or began prior to the date of this Change Agreement. Without limiting the foregoing, this release and discharge shall include Claims for adjustment of time and compensation asserting that the Schedule Change caused or contributed to Damages. Provided, however, this release and discharge does not apply to Claims based on a Future Delay. Notwithstanding the Contractor's release of Claims as provided herein, in the event the Agencies do not execute a release and assert their Claims, as described in Section 4.5, the Contractor, for and on behalf of itself, its parent corporation and their subcontractors, suppliers and any other person or entity supplying work or materials to the RFCS Project through them, reserves the right to use Agency-Caused Past Delays as offsets and/or defenses against any such Agency Claims, but agrees that Contractor may not obtain a net judgment based on such offsets and/or defenses.

4.3 The Contractor is responsible for negotiating and satisfying any and all subcontractor claims arising out of the Schedule Change on a full and final basis and shall defend, indemnify and hold harmless the Agencies from all such claims.

4.4 As provided in the Contract, the Agencies' approval of the New Project Schedule shall not constitute approval or acceptance of the Contractor's means, methods, sequencing, logic, order, precedence and succession of activities or Contractor's ability to complete the Work in a timely manner. This release and discharge does not apply to, and the Contractor remains responsible for, any mistakes, errors or omissions in any schedule, including, but not limited to, mistakes, errors or omissions of logic, order, precedence, and duration, except to the extent that any such mistakes, errors or omissions arise from information provided by the Agencies and except to the extent Contractor's performance is otherwise excused under the terms of the Contract.

4.5 The Agencies hereby reserve all Claims, rights and remedies they may have under the Contract or at law except to the extent provided in any previous written waiver and release. Provided, however, if the Contractor is issued a Notice of Apparent Completion (NAC) for the Beta Test Acceptance Milestone by February 12, 2007, the Agencies shall execute a release of any Claims they may have against the Contractor arising out of, or related to, this Change Agreement, its Attachments, and the Schedule Change included therein. In any event, however, said release and discharge would not apply to Claims based on a Future Delay.

4.6 Except as provided in Section 4.2, nothing in this Change Agreement shall be construed as a waiver, release or discharge of any party's rights under the Contract or at law with regard to another party's performance of its obligations under the Contract.

4.7 Except as expressly provided in this Change Agreement and its attachments, or in other executed Amendments and Change Orders, the provisions of the Contract shall remain in full force and effect without change, including but not limited to the provisions of Section 3.I-26, "Project Schedule for System Development Work", Section 3.I-27, "Progression of System Development Work", Section 3.I-33. "Contract Claims", and Section 3.I-34, "Dispute Review Board."

IN WITNESS WHEREOF, the authorized representatives of the Contractor and the Agencies have signed their names in the spaces provided below.

ERG Transit Systems (USA), Inc.

By: Pete Brant

Its: PROJECT MANAGER

Date: JUNE 9, 2006

Central Puget Sound Regional Transit Authority

By: John M. Earl

Its: CEO

Date: 6-12-06

City of Everett

By: _____

Its: _____

Date: _____

King County Transportation

By: Theresa Dwyer

Its: General Manager

Date: 6/12/06

Kitsap County Public Benefit Area

By: John Brown

Its: Service Development Dir.

Date: 6/12/06

Pierce County Public Transportation Benefit Area

By: Lynne Supple

Its: CEO

Date: 6/12/06

Snohomish County Public Transportation Benefit Area

By: Carol M. Matthews

Its: DIRECTOR OF PLANNING

Date: 6/12/06

Washington State Ferries, Washington State Department of Transportation

By: _____

Its: _____

Date: _____

IN WITNESS WHEREOF, the authorized representatives of the Contractor and the Agencies have signed their names in the spaces provided below.

ERG Transit Systems (USA), Inc.

By: Potenti Brand

Its: PROJECT MANAGER

Date: JUNE 9, 2006

Central Puget Sound Regional Transit Authority

By: _____

Its: _____

Date: _____

City of Everett

By: _____

Its: _____

Date: _____

King County Transportation

By: _____

Its: _____

Date: _____

Kitsap County Public Benefit Area

By: _____

Its: _____

Date: _____

Pierce County Public Transportation Benefit Area

By: _____

Its: _____

Date: _____

Snohomish County Public Transportation Benefit Area

By: _____

Its: _____

Date: _____

Washington State Ferries, Washington State Department of Transportation

By: W Michael Anderson

Its: EXECUTIVE DIRECTOR

Date: JULY 7, 2006

IN WITNESS WHEREOF, the parties hereto have executed this Contract Change Agreement to Contract #229944 as of the date set forth below its signature.

ERG Transit Systems (USA) Inc.

The Agencies

By: _____
Its: _____
Date: _____

By: _____
Their: _____
On behalf of the Agencies
Date: _____

Central Puget Sound Regional Transit Authority

City of Everett

By: _____
Its: _____
Date: _____

By: Ray Stephanson
Ray Stephanson, Mayor, or His Designee
Date: 6-26-06

King County

ATTEST:
By: Sharon Marks
Sharon Marks, City Clerk
Date: 6/26/06

By: _____
Its: _____
Date: _____

APPROVED AS TO FORM:
By: [Signature]
Elmer E. "Ned" Johnson, City Attorney
Date: 6/23/06

Pierce County Public Transportation Benefit Area

Kitsap County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

Washington State Ferries, Washington State Department of Transportation

Snohomish County Public Transportation Benefit Area

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

MODIFIED TESTING PLAN

Because the Agencies have not yet verified the proposed Contract section amendments, the references to Contract sections herein will be subject to mutual agreement of the Parties.

1.0 Definitions

NOTE: add to Definitions in Contract

The following terms shall have the following meanings for purposes of this Plan only and shall not be construed as separating the RFCS into categories for any other purpose.

- a. Product Business Rules Testing – Front Office Components - This includes testing of product business rules at a device and subsystem level for all devices and subsystems comprising the front office components – all variations of fare transaction processors, the gate adaptation kit, customer service terminals, and all other onboard bus devices - with the exception of the TRU device. This shall include product business rule testing for both the Beta Test and Full System functionality.
- b. SIT Part 1: End-to-End Testing – This shall include end-to-end testing of all elements of the RFCS except for the CCW, IPW and TRU (acronyms defined in "c" and "d" below). This stage of testing shall also include testing of Product Business Rules that require the RFC devices to be in their end-to-end configuration, and Product Business Rules included in the approved end-to-end testing scenarios.
- c. SIT Part 2: CCW and TRU - the Call Center Website and Terminal Revalue Unit and related Reports
- d. SIT Part 3: IPW - the Institutional Program Website and related Reports

2.0 Phase 1 Factory Acceptance Testing (FAT)**2.1 Continuation of Phase 1 FAT**

6.II-11.4.1(b) shall be amended to include the following:

"Permission for the Contractor to commence SIT in accordance with 6.II-11.4.3.3 shall not relieve the Contractor of continuing to perform Phase 1 Factory Acceptance Testing (H-FAT and F-FAT) until all requirements for same have been completed and the Agencies have issued a Notice of Apparent Completion (NAC)."

2.2 Weekly Report

6.II-11.4.8.5 shall be amended to include:

"The Contractor shall continue to conduct Phase 1 FAT and shall provide a report each Wednesday, until a NAC is issued, that includes the following:

- a. the results of all FAT tests and re-tests conducted to-date, as required under Section 6.II-11.4.8.5 of the Contract and documented in CDRL 14 Factory Acceptance Test Plan;

- b. for any Phase 1 FAT test that fails or is designated by the Contractor as "conditionally passed" or "not applicable (n/a)", the weekly report shall describe in detail the reason the test was not passed, details of the problem or defect encountered, how the Contractor proposes to address the problem or defect, when the problem or defect will be resolved, what if any documents are required to be updated, for all tests identified as "conditionally passed" or "not applicable (n/a)" after the execution of this Agreement; and
- c. for each RFCS function that has not yet been subjected to Factory Acceptance Testing, the weekly report shall describe how and by when that function will be subjected to Factory Acceptance Testing. "

2.3 Contractor Proposed Changes to Requirements/Documents

NOTE: Add to Change Management section (Division I)

To the extent the Contractor's proposed resolutions submitted under 6.II-11.4.8.5 include requests to change Contract requirements or design documents, the Contractor shall submit a Change Request to the Agencies, including the proposed change, updated language and commented documents within 30 calendar days of each SIT Part completion. If the Agencies agree to the requested change, ERG shall submit the revised document for Agency review. If the Agencies do not agree to a change in the Contract requirements or design documents, the Contractor shall make such modifications to the hardware or software as are needed until the test is passed as part of the Phase 1 FAT.

2.4 Resolution of Failed Tests

6.II-11.4.8.6 shall be amended to include the following:

"6.II-11.4.8.6.1 Resolution of Failed FAT Tests

If a FAT test is failed, and the problem or defect is assessed to be a severity 1 or 2 per the classifications in Table 8 of CDRL 23, then the Contractor shall make such modifications to the hardware or software as are needed until the test is passed as part of the Phase 1 FAT. If a FAT test is failed but the problem or defect is assessed, with Contract Administrator agreement, to be a severity 3 or 4, then the Contractor shall make such modifications to the hardware or software as are needed until the test is passed in a re-test no later than the completion of Post-Beta FAT for Modified Systems."

2.5 Completion of Phase 1 FAT Milestone

6.II-11.4.2 shall be amended to include the following:

"6.II-11.4.2.6 Completion of Phase 1 FAT Milestone

The following must be satisfactorily performed by the Contractor in order to complete the Phase 1 FAT Milestone and obtain the issuance of the required NAC:

- a. Satisfactory completion of all Contract requirements, including Section 6.II-11.4.2 and CDRL 14;

b. All RFCS functions have been tested including any scripts currently classified by the Contractor as "no run", except those tests as mutually agreed through requested documentation changes;

c. All Phase 1 FAT tests have passed except for those in which the problem or defect has been assessed, with Agency agreement, as a severity 3 or 4;

d. all required reports as required by Section 6.II-11.4.8.5 of the Contract and documented in CDRL 24 have been completed; and

e. any Agency-agreed changes to the Contract requirements and design documents for FAT-related items have been confirmed in signed-writings."

3.0 Phase 1 System Integration Testing (SIT)

3.1 Commencement of Phase 1 SIT

6.II-11.4.3 shall be amended to include new section 6.II-11.4.3.3 as follows in its entirety:

"11.4.3.3 Phase 1 System Integration Testing (SIT)

11.4.3.3.1 Commencement of Phase 1 SIT

The Contractor may commence Phase 1 System Integration Testing (SIT) prior to the issuance of a NAC for the successful completion of Phase 1 FAT, subject to the terms of the plan embodied in Contract Change Agreement #2. Other than allowing for the phased commencement of SIT, the Agencies do not intend to modify the testing process, procedures, criteria, reports and other requirements of the Contract.

3.2 Product Business Rules Testing on Front Office Components

11.4.3.3.2 Product Business Rules Testing on Front Office Components

The Contractor shall complete the Product Business Rules Testing by the end of SIT Part 1. This shall include any necessary re-testing of Product Business Rules and testing of any Product Business Rules requiring end-to-end scenarios. Any defects, errors or omissions identified during Product Business Rules testing shall be rectified, and the devices retested, prior to proceeding with the SIT Part 2 testing, unless otherwise agreed by the Contract Administrator.

3.3 SIT Part 1: End-to-End Testing of RFCS

Section 11.4.3.3.3 SIT Part 1: End-to-End Testing of RFCS shall be amended as follows:

11.4.3.3.3.1 Unless otherwise agreed by the Contract Administrator, the Contractor may not commence SIT Part 1 until:

- a. in advance of the commencement of SIT Part 1, the Contractor has provided the reports as required in 6.II-11.4.8.5 with regard to the Factory Acceptance Testing (H-FAT and F-FAT) of all devices and functions (including reports), other than the CCW, IPW and TRU and related Reports;
- b. the Agencies have issued a NAC for CDRL 22C (Detailed SIT Procedures) which procedures shall include but are not limited to:
 1. Detailed procedures for the end-to-end testing of all system components as defined in Section 1.0(b);
 2. Identification of those test procedures that will be undertaken for the CCW, IPW and TRU under SIT Parts 2 and 3;
 3. Regression testing procedures to demonstrate that the introduction of new system functionality related to the CCW, IPW and TRU under SIT Parts 2 and 3 does not adversely impact RFCS elements and functionality previously tested; and
- c. the Contractor has entered into a subcontract with Moss Adams to perform intrusion and other security-related auditing in a manner acceptable to the Agencies. Such auditing shall be completed prior to the completion of SIT Part 1 End-to-End Testing, but is not technically included within the body of the SIT Part 1 Testing scripts.

11.4.3.3.3.2 The Contractor shall continue to conduct SIT Part 1 tests and re-tests and shall provide a report each Wednesday, until a NAC is issued for Phase 1 SIT that includes the following:

- a. a written report of the results of all SIT tests and re-tests conducted to-date, as required under Section 6.II-11.4.8.5 of the Contract and documented in CDRL 24;
- b. for any SIT test that fails or is designated by the Contractor as "conditionally passed", the weekly report shall also describe in detail the reason the test was not passed, details of the problem or defect encountered, how the Contractor proposes to address the problem or defect, when the problem or defect will be resolved, what if any documents are required to be updated and by when; and
- c. for each RFCS function that has not yet been subjected to SIT, the weekly report shall describe how and by when that function will be subjected to SIT.

3.4 SIT Part 2: CCW and TRU

11.4.3.3.4 SIT Part 2: CCW and TRU

11.4.3.3.4.1 Unless otherwise agreed by the Contract Administrator, the Contractor may not commence SIT Part 2 until: all required FAT tests and re-tests of the CCW and TRU have passed or, if they failed, the problem or defect has been assessed, with Contract Administrator agreement, to be a severity 3 or 4; all required reports have been completed; and any Agency-agreed changes to the Contract and design documents have been confirmed in signed-writings.

11.4.3.3.4.2 The Contractor shall continue to conduct SIT Part 2 tests and re-tests and shall provide a report each Wednesday, until a NAC is issued for Phase 1 SIT, that includes the following:

- a. a written report of the results of all SIT tests and re-tests conducted to-date, as required under Section 6.11-11.4.8.5 of the Contract and documented in CDRL 24;
- b. for any SIT test that fails or is designated by the Contractor as "conditionally passed", the weekly report shall also describe in detail the reason the test was not passed, details of the problem or defect encountered, how the Contractor proposes to address the problem or defect, when the problem or defect will be resolved, what if any documents are required to be updated and by when; and
- c. for each RFCS function that has not yet been subjected to SIT, the weekly report shall describe how and by when that function will be subjected to SIT.

3.5 SIT Part 3: IPW

11.4.3.3.5 SIT Part 3: IPW

11.4.3.3.5.1 Unless otherwise agreed by the Contract Administrator, the Contractor may not commence SIT Part 3 until: all required FAT tests and re-tests of the IPW have passed or, if they failed, the problem or defect has been assessed, with Contract Administrator agreement, to be a severity 3 or 4 ; all required reports have been completed; and any Agency-agreed changes to the Contract and design documents have been confirmed in signed-writings.

11.4.3.3.5.2 The Contractor shall continue to conduct SIT Part 3 tests and re-tests and shall provide a report each Wednesday, until a NAC is issued for Phase 1 SIT that includes the following:

- a. a written report of the results of all SIT tests and re-tests conducted to-date, as required under Section 6.11-11.4.8.5 of the Contract and documented in CDRL 24;
- b. for any SIT test that fails or is designated by the Contractor as "conditionally passed" by the Contractor, the weekly report shall also describe in detail the reason the test was not passed, details of the problem or defect encountered, how the Contractor proposes to address the problem or defect, when the problem or defect will be resolved, what if any documents are required to be updated and by when; and
- c. for each RFCS function that has not yet been subjected to SIT, the weekly report shall describe how and by when that function will be subjected to SIT."

NOTE: Add to Change Management section (Division I)

To the extent the Contractor's proposed resolutions submitted under Sections 6.II-11.4.3.3.2(b), 6.II-11.4.3.4.2(b) and 6.II-11.4.3.5.2(b) above include requests to change Contract requirements or design documents, the parties shall meet to discuss such requests. If the Agencies agree in principle to make a requested change, ERG shall submit the actual language change for Agency review. Any agreed changes shall be confirmed in a revision to the applicable document. If the Agencies do not agree to a change in the Contract requirements or design documents, the Contractor shall make such modifications to the hardware or software as are needed until the test is passed as part of the Phase 1 SIT.

3.7 Resolution of Failed Tests

6.II-11.4.8.6 shall be amended to include the following:

"6.II-11.4.8.6.2 Resolution of Failed SIT Tests

If any SIT Part 1, 2 and 3 test is failed, and the problem or defect is assessed to be a severity 1 or 2, then the Contractor shall make such modifications to the hardware or software as are needed until the test is passed as part of the Phase 1 SIT. If a SIT test is failed but the problem or defect is assessed, with Contract Administrator agreement, to be a severity 3 or 4, then the Contractor shall make such modifications to the hardware or software as are needed until the test is passed in a re-test no later than the completion of Post-Beta SIT for Modified Systems."

3.8 Completion of Phase 1 SIT Milestone

6.II-11.4.3 shall be amended to include the following:

"6.II-11.4.3.3.6 Completion of Phase 1 SIT Milestone

The following must be satisfactorily performed by the Contractor in order to complete the Phase 1 SIT Milestone and obtain the issuance of the required NAC.

- a. The Contract requirements, including Section 6.II-11.4.3 and CDRL 22, have been satisfactorily completed;
- b. All RFCS functions have been tested;
- c. All Phase 1 SIT tests have passed except for those in which the problem or defect has been assessed, with Contract Administrator agreement, as a severity 3 or 4;
- e. all required reports as required by Section 6.II-11.4.8.5 of the Contract and documented in CDRL 24 have been completed; and
- f. any Agency-agreed changes to the Contract and design documents have been confirmed in signed-writings."

4.0 Beta Test

4.1 Beta Test Readiness

6.II-11.4.6 shall be amended to include the following:

"6.II-11.4.6.7 Beta Test

11.4.6.7.1 Beta Test Readiness

Unless otherwise agreed by the Contract Administrator, the Beta Test Readiness Milestone shall not be achieved until the following are met:

- (a) all Factory Acceptance Testing and all System Integration Testing have been completed and there are no problems or defects assessed, with Contract Administrator agreement, to be severity 1 or 2;
- (b) all design documentation, training materials, manuals and other documents have been revised to reflect any Agency-agreed changes to Contract requirements and design documents; and
- (c) all items in the Beta Readiness checklist have been satisfactorily completed.

4.2 Phased Conduct of Beta Test

11.4.6.7.2 Phased Conduct of Beta Test

11.4.6.7.2.1 Notwithstanding any provision to the contrary in the Contract and the Beta Test Plan (CDRL 18), the parties agree that the Beta Test shall be conducted in accordance with the following terms. The Contractor shall update the Beta Test Plan (CDRL 18) prior to the commencement of the Beta Test. Other than as provided herein, the parties do not intend to modify the testing process, procedures, criteria, reports and other requirements of the Contract.

11.4.6.7.2.2 Beta Test Settling-In Period

The provisions of Section 6.II-11.4.6.2 remain in effect.

11.4.6.7.2.3 Beta Test Stream One (Use by Agency Employees Only)

Beta Test Stream One shall commence after the Settling-In Period and shall continue until the completion of Streams Two and Three. During Stream One, all RFCS functions shall be in operation but used only by testers from within the Agencies.

11.4.6.7.2.4 Beta Test Stream Two (Use by Non-Institutional Customers)

Stream Two of the Beta Test shall commence no sooner than completion of all internal Agency Front Office and Back Office staff Training. During Beta Test Stream Two, the RFCS shall be in use by general public customers (non-institutional program).

Stream Two shall continue until the completion of Stream Three.

11.4.6.7.2.5 Beta Test Stream Three (Institutional Programs and Website)

Stream Three the Beta Test shall commence no sooner than completion of all IPW-associated internal Agency staff training.

During Stream Three all RFCS functions of the RFCS shall be in operation and used by Agency staff (per Stream One), general public customers (per Stream Two), and institutional program customers."

6.II-11.4.8.6 shall be amended to include the following:

"6.II-11.4.8.6.3 Resolution of Beta Problems or Defects

If a problem or defect is identified in the Beta test and is assessed to be a severity 1 or 2 per the classifications in Table 8 of CDRL 23, then the Contractor shall make such modifications to the hardware or software as are needed until the test is passed as part of the Beta test. If such problem or defect is assessed, with Contract Administrator agreement, to be a severity 3 or 4, then the Contractor shall make such modifications to the hardware or software as are needed until the test is passed in a re-test no later than the completion of Post-Beta FAT for Modified Systems. "

6.II-11.4.8.6 shall be amended to include the following:

"6.II-11.4.8.6.4 Beta Acceptance Criteria

The following must be satisfactorily performed by the Contractor in order to complete the Beta Acceptance Milestone and obtain the issuance of the required NAC.

- a. a NAC has been issued for Phase 1 FAT and Phase 1 SIT;
- b. The Contract requirements, including Section 6.II-11.4.6 and CDRL 18, have been satisfactorily completed;
- c. All RFCS functions have been tested;
- d. All Beta tests have passed except for those in which the problem or defect has been assessed, with Contract Administrator agreement, as a severity 3 or 4, which severity;
- e. all required reports as required by Section 6.II-11.4.8.5 of the Contract and documented in CDRL 24 have been completed; and
- f. any Agency-agreed changes to the Contract and design documents have been confirmed in signed-writings.

END

**Amendment Eighteen
to the
Contract for the Design, Implementation, Operation and Maintenance of the
Regional Fare Coordination System**

This Amendment Eighteen to the Contract for the Design, Implementation, Operation and Maintenance of the Regional Fare Coordination System is entered into this ____ day of June, 2006, by and between ERG Transit Systems (USA) Inc, a California corporation and wholly owned subsidiary of ERG Limited, an Australian corporation, (hereinafter referred to as the "Contractor") and each of the following seven public transportation agencies (hereinafter referred to individually as an "Agency" or collectively as the "Agencies"):

1. Central Puget Sound Regional Transit Authority ("Sound Transit")
2. King County ("King County")
3. Kitsap County Public Transportation Benefit Area ("Kitsap Transit")
4. Pierce County Public Transportation Benefit Area ("Pierce Transit")
5. Snohomish County Public Transportation Benefit Area ("Community Transit")
6. City of Everett ("Everett")
7. State of Washington, acting through the Washington State Department of Transportation, Washington State Ferries Division ("WSF")

Recitals

- A. Effective April 29, 2003, each of the Agencies and the Contractor entered into Contract #229944 ("Contract") to implement a Regional Fare Coordination System ("RFC System") to establish a common fare system utilizing smart card technology. The Contractor is responsible for the development, implementation, operation and maintenance of the RFC System as specified in the Contract.
- B. In order to allow for phased testing and to establish a new Project Schedule, the Agencies and the Contractor have entered into that certain Contract Change Agreement #2 dated June ____, 2006. This Amendment Eighteen is attached to, and adopted by, the Agencies and the Contractor as part of said Contract Change Agreement #2.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Agencies and the Contractor hereby agree to amend the Contract as follows:

Section 1.0 New Project Schedule

1.1 Exhibit 8, "Project Schedule," is hereby replaced in its entirety by the new Project Schedule enclosed herewith in CD format. Provided, however, the Parties acknowledge that this new Project Schedule does not necessarily reflect actual start and/or finish dates that have occurred prior to this Amendment.

1.2 Attachment H to the Project Schedule, "Key Completion Date Summary," is hereby replaced in its entirety by the new Attachment H, attached hereto as CCA#2-Attachment B-1.

Section 2.0 Security Audit

Section 3.I-11, Security of RFC System," is hereby amended as follows:

3.I-11 Security of RFC System

11.1 Contractor shall maintain the security of the RFC System, including security for all computer systems, information and monetary transactions, in accordance with the professional standards of persons and firms with specialized knowledge, expertise and experience who are leading designers and providers of systems, software and hardware used in the automated smart card fare payment industry. Such security shall include, without limitation: (i) maintaining physical security of the RFC System, to ensure that no unauthorized person shall have access to the RFC System; (ii) creating firewalls, password protections, and other appropriate measures to protect against unauthorized access to the RFC System or to Customer information by Contractor's employees, Agency employees or third parties; (iii) protecting against penetration of security and manipulation of customer account data by Contractor's personnel, Agency personnel or third parties; and (iv) additional security measures as specified in the Services and Equipment Specifications in Divisions II and III.

11.2 Contractor shall update its security procedures as technology and security threats evolve to provide security capabilities at all times that are in accordance with the professional standards of persons and firms with specialized knowledge, expertise and experience who are leading designers and providers of systems, software and hardware used in the automated smart card fare payment industry.

11.3 Contractor shall have its security procedures and physical facilities audited by a qualified, nationally recognized firm, and Contractor shall take such actions as may be identified in such audit as necessary to comply with the professional standards of persons and firms with specialized knowledge, expertise and experience who are leading designers and providers of systems, software and hardware used in the automated smart card fare payment industry. The Contractor's initial security audit shall consist of the following tasks at a minimum:

- a. by September 30, 2005: a review of CDRL 31 with an assessment of its adequacy and conformance with industry best practices; a review and assessment of the Contractor's existing security measures at its facilities operating the Translink system;
- b. by October 31, 2005: a detailed plan and description of the testing that will be conducted as specified in 11.3(c) below;
- c. as part of the SIT Part 1 End-to-End Testing of the RFCS (to be completed by July 27, 2006), intrusion and other security auditing activities as agreed by ERG and the Agencies.

The Contractor shall complete a second audit no later than May 31, 2007, and then shall conduct such audits by May 31 annually thereafter. Subject to the confidentiality provisions of this Contract, Contractor shall direct the auditor to provide the Contract Administrator with a copy of the final report of such audit within fifteen (15) days after it is completed.

11.4 The Contractor shall report to the Contract Administrator any unauthorized use of the RFC System or unauthorized disclosure of RFCS-related data within forty-eight (48) hours after the Contractor becomes aware of such use or disclosure. In such event, the Contractor shall take such further steps as may reasonably be requested by the Contract Administrator to prevent further unauthorized use of the RFCS or data related thereto.

11.5 At all times, the Contractor shall maintain the security of the collection and clearinghouse operations in accordance with this Contract, applicable legal and regulatory requirements, and in accordance with the professional standards of persons and firms with specialized knowledge, expertise and experience who are leading designers and providers of systems, software and hardware used in the automated smart card fare payment industry.

Seattle RFCS (ORCA) Schedule		ORCA - ERG Key Date Summary		06-09-06 15:41	
Activity ID	Activity Name	Start	Finish		
SEA112a10050	Completion and Acceptance of Preliminary Design (PDR NAC)		11-15-04 A		
SEA264570	Completion and Acceptance of Conditional Final Design (NAC) Issuance		08-08-05 A		
SEA251720	Completion and Acceptance of Final Design (NAC)		09-22-05 A		
SEA251870	KCM - First Delivery of Equipment (Phase I)	02-16-06 A			
SEA254800	Equipment Installation - Full Roll-Out Phase I Equipment Commences	02-16-06 A			
SEA263480	Beta Test Plan Complete (CDRL 18)		03-06-06 A		
SEA251730	Completion of Part 1 Hardware and Functional Factory Acceptance Testing (FAT) (Located in Perth)		06-06-06 A		
SEA253530	Part 1 SIT - Completion of Test Readiness		06-06-06 A		
SEA292380	Completion of Hardware end Functional Factory Acceptance Testing (FAT) (Located in Perth)		09-05-06*		
SEA243180	SIT (Customer Witness) Complete		09-26-06		
SEA251740	Completion of System Integration Testing (SIT)		09-26-06		
SEA251760	Completion of BETA Test Readiness (Beta Start - Payment Milestone)		10-10-06		
SEA001160	Beta Test Settling in Period	10-11-06	10-24-06		
SEA242580	Equipment Installation - Full Roll-Out Phase II Equipment Commences	10-16-06*			
SEA256170	KCM (only) - Phase II On-Board Equipment (Installation I)	10-16-06*	12-06-06		
SEA001154	Beta Test Start	10-25-06			
SEA263610	SIT Test Report Complete		12-07-06		
SEA267670	Beta Test Complete		12-22-06		
SEA001156	Extended Beta Test (Agencies Only)	12-23-06	02-09-07		
SEA254290	Phase II Notice To Proceed (NTP)	02-12-07			
SEA262760	Phase I Complete - Beta Test Acceptance (Payment Milestone)		02-12-07		
SEA242570	Completion of Post-Beta FAT for Modified Systems		09-28-07		
SEA243800	Completion of Post-Beta SIT for Modified Systems (Conducted in Perth)		10-31-07		
SEA292140	Post-Beta System Implementation	11-01-07	11-30-07		
SEA242630	Complete System Commissioning (Revenue Ready - Payment Milestone)		11-30-07		
SEA264580	Go Live - Commence Acceptance Testing	01-02-08			
SEA254050	Acceptance Testing - Part 1	01-02-08	02-26-08		
SEA267820	Acceptance Testing - Part 2	02-27-08	04-20-08		
SEA267830	Acceptance Testing - Part 3 (final test phase)	04-21-08	06-15-08		
SEA251800	Full System Acceptance (Project Complete - Payment Milestone)		08-12-08		